	Application No.	Applicant(s)	
Notice of Allowability	10/711,981	CHEN ET AL.	
	Examiner	Art Unit	
	Oanh Duong	2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to _04/11/2007_.

2. ☒ The allowed claim(s) is/are _1-3_.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some*   c) ☐ None   of the:

        1. ☐ Certified copies of the priority documents have been received.

        2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

        3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

    * Certified copies not received: _____ .

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.

    (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

        1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____ .

    (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of

        Paper No./Mail Date _____ .

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)

2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)

3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____

4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

5. ☐ Notice of Informal Patent Application

6. ☒ Interview Summary (PTO-413), Paper No./Mail Date _20070428_ .

7. ☒ Examiner's Amendment/Comment

8. ☒ Examiner's Statement of Reasons for Allowance

9. ☐ Other _____ .

INTERVIEW SUMMARY

1.   A proposed amendment as shown in examiner's amendment below was sent to

the undersigned, Rudolf O. Siegesmund, for his consideration. The undersigned

authorized examiner to enter the proposed amendment by Examiner's amendment.

EXAMINER'S AMENDMENT

2.   An examiner's amendment to the record appears below. Should the changes

and/or additions be unacceptable to applicant, an amendment may be filed as provided

by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be

submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview

with Rudolf O. Siegesmund (Registration No. 37,720) on April 26, 2007.

The claims of the invention are amended as follows:

1. (Currently amended) A process for allocating a resource by a service provider

having a plurality of service level agreements with a plurality of customers in a

shared web application environment in which a web application server retrieves

data from a database and transmits data in ~~the form of~~ a <u>displayed</u> web page to a

plurality of consumer computers, the process comprising:

classifying ~~a~~ <u>the</u> plurality of customers into a plurality of premium

customers and a plurality of standard customers ~~where a premium customer is~~

~~entitled to a first compensation rate when there is a breach of a premium~~

~~customer's service level agreement, where a standard customer is entitled to a~~

~~second compensation rate when there is a breach of the standard customer's~~

~~service level agreement, and where the second compensation rate is less than~~

~~the first compensation rate~~;

collecting a performance data for one of the plurality of premium

customers by tracking and timing a plurality of transactions within the shared web

application environment;

comparing the performance data with an agreed service level for the one

of the plurality of premium customers to determine if there is a breach of the

agreed service level;

~~responsive to a profiling tool indicating~~ determining that an available

resource of the one of the plurality of premium customers ~~customer's available~~

~~resource~~ cannot provide the agreed service level resulting in the breach of ~~the~~

~~premium customer's~~ the agreed service level ~~agreement,~~;

in response to the breach of the agreed service level for the one of the

plurality of the premium customers, determining if the available resource has

been allocated to a ~~customer~~ one of a plurality of customers that ~~is~~ are not using

the available resource;

if the available resource has been allocated to the one of the plurality of

customers that are not using the available resource, re-allocating the available

resource from the one of the plurality of customers to the one of the plurality of

the premium customers;

~~responsive to determining that~~ if the available resource has not been

allocated to the one of the plurality of customers ~~customer~~ that ~~is~~ are not using

the available resource, determining if the available resource has been allocated

to [[a]] one of the standard ~~customer~~ customers; and

~~responsive to determining that~~ if the available resource has been allocated

to the one of the standard ~~customer~~ customers, re-allocating the available

resource from the one of the standard ~~customer~~ customers to the one of the

plurality of the premium customers;

~~wherein the profiling tool collects a retrieval rate from a web application~~

~~server to a database, a time to request and return a displayed web page, and a~~

~~number of users that an application can manage by tracking and timing a plurality~~

~~of transactions within the shared web application environment; and~~

wherein the one of the plurality of premium customers is entitled to a first

compensation rate when there is the breach of the agreed service level with the

one of the premium customers;

wherein the one of the plurality of the standard customers is entitled to a

second compensation rate when there is a breach of an agreed service level with

the one of the plurality of the standard customers;

wherein the second compensation rate is less than the first compensation

rate;

wherein the performance data includes a retrieval rate from the web application server to the database, a time to request and return the displayed web-page, and a number of users that the web application server manages; and

wherein a decision to re-allocate the step of re-allocating the available resource from the one of the standard customers to the one of the plurality of the premium customers is based on the retrieval rate from the web application server to the database, the time to request and return the displayed web-page, the number of users that an the web application server can manages, a target list of the standard customers, the a first status of the one of the standard customers, and the a second status of the one of the plurality of the premium customers.

2.   (Currently Amended) A data processing machine for allocating a resource by a service provider to a premium customer in a shared web application environment in which a web application server retrieves data from a database and transmits data in the form of a displayed web page to a plurality of consumer computers, the machine comprising:

a processor;

a memory;

a service level agreement stored in the memory, the service level agreement setting a threshold performance level for a the resource and a penalty for failing to meet a threshold performance level of the premium customer;

means for causing the processor to measure a performance level of the resource according to a collected performance data; and

means for causing the processor to compare the performance level of the resource with the threshold performance level; and

responsive to determining that the performance level does not meet the threshold performance level, means for determining if the resource has been allocated to a one of a plurality of customers customer that is are not using the resource,

means for re-allocating the resource from the one of the plurality of customers to the premium customer if the resource has been allocated to the one of the plurality of customers that is not using the resource;

responsive to determining that the resource has not been allocated to the one of the plurality of customers customer that is are not using the resource, means for determining if the resource has been allocated to the a standard customer in a target list of standard customers, and

responsive to determining that the resource has been allocated to a the standard customer, means for re-allocating the resource from the standard customer to the premium customer;

wherein the penalty for failing to meet the threshold performance level of the premium customer is greater than a penalty for a breach of a service level agreement of the standard customer;

wherein a decision to re-allocate the means for re-allocating the resource from the standard customer to the premium customer is based on the measurement of the collected performance level data, [[a]] the target list of the standard customers, the a first status of the standard customer, and the a second status of the premium customer; and

wherein a plurality of data measured to determine the collected performance level data includes a retrieval rate from the web application server to the database, a time to request and return a the displayed web-page, and a number of users that a web application at the web application server can manages.

3.   (Currently Amended) A program, encoded in a computer-readable storage medium, for allocating a resource to a premium customer by a service provider in a shared web application environment in which a web application server retrieves data from a database and transmits data in the form of a displayed web page to a plurality of consumer computers, the program comprising:

means for determining if a utilization of the resource has caused a breach of a service level agreement with the premium customer;

in response to the breach of the service level agreement with the premium

customer, means for determining if the resource has not been allocated to an any

customer that is not using the resource;

means for re-allocating the resource from the any customer to the

premium customer if the resource has been allocated to the any customer that is

not using the resource;

responsive to determining that the resource has not been allocated to the

any customer that is not using the resource, means for determining if the

resource has been allocated to a standard customer in a target list of standard

customers where the standard customer has a standard customer penalty for a

breach of a standard customer's service level agreement; and

responsive to determining that the resource has been allocated to the

standard customer, means for re-allocating the resource from the standard

customer to the premium customer;

wherein a decision to re-allocate the means for re-allocating the resource

from the standard customer to the premium customer is based on a retrieval rate

from the web application server to the database, a time to request and return the

displayed web-page, a number of users that a web application at the web

application server can manages, the target list of the standard customers, the a

first status of the standard customer, and the a second status of the premium

customer;

wherein the standard customer has a standard customer penalty for a

breach of a service level agreement with the standard customer; and

wherein a penalty for the breach of the service level agreement with the

premium customer is greater than the standard customer penalty for the breach

of the service level agreement with the standard customer.

REASONS FOR ALLOWANCE

3.   Claims 1-3 are allowed over the prior art of record.

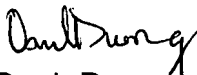4.   The following is an examiner's statement of reasons for allowance:

With respect to claims 1-3, the prior art of record, individually or in combination,

fails to teach or suggest or render obvious the claimed invention in combination with the

specific added limitations as recited in independent claims 1-3. Specially, inter alia, the

prior of record fails to teach or suggest a program, a machine, and a method for re-

allocating a resource to a premium customer wherein the means for or step of

reallocating the resource from a standard customer to the premium customer is based

on a retrieval rate from the web application server to the database, a time to request

and return a displayed web-page, a number of users that the web application server

manages, a target list of standard customers with the lower status, status of the

standard customer, and status of the premium customer (as defined in Applicant's

specification in page 9 paragraph 29).

5.   Any comments considered necessary by applicant must be submitted no later

than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on

Statement of Reasons for Allowance."

6.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Oanh Duong whose telephone number is (571) 272-

3983. The examiner can normally be reached on Monday- Friday, 9:30PM - 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Oanh Duong
April 28, 2007